



Reprinted
April 8, 2015

ENGROSSED HOUSE BILL No. 1044

DIGEST OF HB 1044 (Updated April 7, 2015 3:31 pm - DI 73)

Citations Affected: IC 6-9.

Synopsis: Food and beverage taxes. Authorizes the town of Rockville to adopt a town food and beverage tax. Provides that the tax rate may not exceed 1%. Specifies the purposes for which the Rockville food and beverage tax may be used. Authorizes the city of Greenwood to adopt a municipal food and beverage tax. Provides that the tax rate may not exceed 1%. Provides that the receipts from the Greenwood food and beverage tax must be used by the city for public safety. Imposes a food and beverage tax on transactions that occur in a travel plaza located next to the Indiana toll road. The food and beverage tax does not apply to a travel plaza in which a food and beverage tax is already imposed. Provides that the tax rate equals 1%. Provides that the receipts from the Indiana toll road food and beverage tax shall be distributed to the Northern Indiana Tourism Development Commission (commission). Establishes the Indiana toll road visitor services council (council). Requires the commission to annually submit a budget to the council for its review and approval. Provides that the commission may
(Continued next page)

Effective: Upon passage; July 1, 2015.

Morrison, Price, DeLaney

(SENATE SPONSORS — BOOTS, FORD)

January 6, 2015, read first time and referred to Committee on Ways and Means.
February 17, 2015, reported — Do Pass.
February 19, 2015, read second time, ordered engrossed. Engrossed.
February 23, 2015, read third time, passed. Yeas 57, nays 39.

SENATE ACTION

February 25, 2015, read first time and referred to Committee on Tax & Fiscal Policy.
March 26, 2015, amended, reported favorably — Do Pass.
April 7, 2015, read second time, amended, ordered engrossed.

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not expend money received from the tax unless: (1) it is made under a resolution adopted by the council; and (2) the specific program for which the expenditure will be made has been approved by the council. Specifies the uses, subject to approval by the council, to which receipts from the Indiana toll road food and beverage tax may be applied. Provides that the council consists of the following members: (1) One member each from each of the counties that make up the commission, who is involved in the convention, visitor, or tourism business, and who is appointed by the county executive of the county. (2) One member appointed by the lieutenant governor. (3) One member appointed by the Indiana finance authority. (4) One member appointed by the company or entity that holds the lease to the Indiana toll road. Requires the council to annually submit a report to the Indiana finance authority and the general assembly before November 1 of each year. Authorizes the fiscal body of Orange County to adopt a food and beverage tax of not more than 1%. Specifies the permissible uses of the tax revenue.



Reprinted
April 8, 2015

First Regular Session of the 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1044

A BILL FOR AN ACT to amend the Indiana Code concerning
taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-9-45 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2015]:
4 **Chapter 45. Rockville Food and Beverage Tax**
5 **Sec. 1. This chapter applies to the town of Rockville.**
6 **Sec. 2. The definitions in IC 6-9-12-1 apply throughout this**
7 **chapter.**
8 **Sec. 3. (a) The fiscal body of the town may adopt an ordinance**
9 **to impose an excise tax, known as the town food and beverage tax,**
10 **on transactions described in section 4 of this chapter. The fiscal**
11 **body of the town may adopt an ordinance under this subsection**
12 **only after the fiscal body has previously held at least one (1)**
13 **separate public hearing in which a discussion of the proposed**
14 **ordinance to impose the town food and beverage tax is the only**
15 **substantive issue on the agenda for the public hearing.**

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(b) If the town fiscal body adopts an ordinance under subsection (a), the town fiscal body shall immediately send a certified copy of the ordinance to the department of state revenue.

(c) If the town fiscal body adopts an ordinance under subsection (a), the town food and beverage tax applies to transactions that occur after the later of the following:

(1) The day specified in the ordinance.

(2) The last day of the month that succeeds the month in which the ordinance is adopted.

Sec. 4. (a) Except as provided in subsection (c), a tax imposed under section 3 of this chapter applies to a transaction in which food or beverage is furnished, prepared, or served:

(1) for consumption at a location or on equipment provided by a retail merchant;

(2) in the town; and

(3) by a retail merchant for consideration.

(b) Transactions described in subsection (a)(1) include transactions in which food or beverage is:

(1) served by a retail merchant off the merchant's premises;

(2) food sold in a heated state or heated by a retail merchant;

(3) made of two (2) or more food ingredients, mixed or combined by a retail merchant for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses); or

(4) food sold with eating utensils provided by a retail merchant, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or package used to transport the food).

(c) The town food and beverage tax does not apply to the furnishing, preparing, or serving of a food or beverage in a transaction that is exempt, or to the extent the transaction is exempt, from the state gross retail tax imposed by IC 6-2.5.

Sec. 5. The town food and beverage tax rate:

(1) must be imposed in an increment of twenty-five hundredths percent (0.25%); and

(2) may not exceed one percent (1%);

of the gross retail income received by the merchant from the food



1 or beverage transaction described in section 4 of this chapter. For
 2 purposes of this chapter, the gross retail income received by the
 3 retail merchant from a transaction does not include the amount of
 4 tax imposed on the transaction under IC 6-2.5.

5 Sec. 6. A tax imposed under this chapter shall be imposed, paid,
 6 and collected in the same manner that the state gross retail tax is
 7 imposed, paid, and collected under IC 6-2.5. However, the return
 8 to be filed with the payment of the tax imposed under this chapter
 9 may be made on a separate return or may be combined with the
 10 return filed for the payment of the state gross retail tax, as
 11 prescribed by the department of state revenue.

12 Sec. 7. The amounts received from the tax imposed under this
 13 chapter shall be paid monthly by the treasurer of state to the town
 14 fiscal officer upon warrants issued by the auditor of state.

15 Sec. 8. (a) If a tax is imposed under section 3 of this chapter by
 16 a town, the town fiscal officer shall establish a food and beverage
 17 tax receipts fund.

18 (b) The town fiscal officer shall deposit in the fund all amounts
 19 received under this chapter.

20 (c) Money earned from the investment of money in the fund
 21 becomes a part of the fund.

22 Sec. 9. Money in the food and beverage tax receipts fund must
 23 be used by the town only for the following purposes:

24 (1) To reduce the town's property tax levy for a particular
 25 year at the discretion of the town, but this use does not reduce
 26 the maximum permissible ad valorem property tax levy under
 27 IC 6-1.1-18.5 for the town.

28 (2) For economic development purposes, including the pledge
 29 of money under IC 5-1-14-4 for bonds, leases, or other
 30 obligations for economic development purposes.

31 (3) For the following purposes:

32 (A) Storm water, sidewalk, street, park, and parking
 33 improvements necessary to support tourism in the town.

34 (B) Public safety.

35 (C) The pledge of money under IC 5-1-14-4 for bonds,
 36 leases, or other obligations incurred for a purpose
 37 described in clauses (A) through (B).

38 Revenue derived from the imposition of a tax under this chapter
 39 may be treated by the town as additional revenue for the purpose
 40 of fixing its budget for the budget year during which the revenues
 41 are to be distributed to the town.

42 Sec. 10. With respect to obligations for which a pledge has been



made under section 9 of this chapter, the general assembly covenants with the holders of the obligations that this chapter will not be repealed or amended in a manner that will adversely affect the imposition or collection of the tax imposed under this chapter if the payment of any of the obligations is outstanding.

SECTION 2. IC 6-9-46 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 46. Greenwood Food and Beverage Tax

Sec. 1. This chapter applies to the city of Greenwood.

Sec. 2. The definitions in IC 6-9-12-1 apply throughout this chapter.

Sec. 3. (a) The fiscal body of the city may adopt an ordinance to impose an excise tax, known as the city food and beverage tax, on transactions described in section 4 of this chapter. The fiscal body of the city may adopt an ordinance under this subsection only after the fiscal body has previously held at least one (1) separate public hearing in which a discussion of the proposed ordinance to impose the city food and beverage tax is the only substantive issue on the agenda for that public hearing.

(b) If the city fiscal body adopts an ordinance under subsection (a), the city fiscal body shall immediately send a certified copy of the ordinance to the department of state revenue.

(c) If the city fiscal body adopts an ordinance under subsection (a), the city food and beverage tax applies to transactions that occur after the last day of the month that succeeds the month in which the ordinance is adopted.

Sec. 4. (a) Except as provided in subsection (c), a tax imposed under section 3 of this chapter applies to a transaction in which food or beverage is furnished, prepared, or served:

(1) for consumption at a location or on equipment provided by a retail merchant;

(2) in the city; and

(3) by a retail merchant for consideration.

(b) Transactions described in subsection (a)(1) include transactions in which food or beverage is:

(1) served by a retail merchant off the merchant's premises;

(2) food sold in a heated state or heated by a retail merchant;

(3) made of two (2) or more food ingredients, mixed or combined by a retail merchant for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these



1 raw animal foods requiring cooking by the consumer as
2 recommended by the federal Food and Drug Administration
3 in chapter 3, subpart 3-401.11 of its Food Code so as to
4 prevent food borne illnesses); or

5 (4) food sold with eating utensils provided by a retail
6 merchant, including plates, knives, forks, spoons, glasses,
7 cups, napkins, or straws (for purposes of this subdivision, a
8 plate does not include a container or package used to
9 transport the food).

10 (c) The city food and beverage tax does not apply to the
11 furnishing, preparing, or serving of a food or beverage in a
12 transaction that is exempt, or to the extent the transaction is
13 exempt, from the state gross retail tax imposed by IC 6-2.5.

14 Sec. 5. The city food and beverage tax rate may not exceed one
15 percent (1%) of the gross retail income received by the merchant
16 from the food or beverage transaction described in section 4 of this
17 chapter. For purposes of this chapter, the gross retail income
18 received by the retail merchant from a transaction does not include
19 the amount of tax imposed on the transaction under IC 6-2.5 or
20 IC 6-9-35.

21 Sec. 6. A tax imposed under this chapter shall be imposed, paid,
22 and collected in the same manner that the state gross retail tax is
23 imposed, paid, and collected under IC 6-2.5. However, the return
24 to be filed with the payment of the tax imposed under this chapter
25 may be made on a separate return or may be combined with the
26 return filed for the payment of the state gross retail tax, as
27 prescribed by the department of state revenue.

28 Sec. 7. The amounts received from the tax imposed under this
29 chapter shall be paid monthly by the treasurer of state to the city
30 fiscal officer upon warrants issued by the auditor of state.

31 Sec. 8. (a) If a tax is imposed under section 3 of this chapter by
32 the city, the city fiscal officer shall establish a food and beverage
33 tax receipts fund.

34 (b) The city fiscal officer shall deposit in the fund all amounts
35 received under this chapter.

36 (c) Money earned from the investment of money in the fund
37 becomes a part of the fund.

38 Sec. 9. Money in the food and beverage tax receipts fund shall
39 be used by the city only for public safety (as defined in
40 IC 6-3.5-6-31(a)), which may include the pledge of money under
41 IC 5-1-14-4 for bonds, leases, or other obligations incurred for
42 purpose of public safety (as defined in IC 6-3.5-6-31(a)). Revenue



1 derived from the imposition of a tax under this chapter may be
 2 treated by the city as additional revenue for the purpose of fixing
 3 its budget for the budget year during which the revenues are to be
 4 distributed to the city.

5 **Sec. 10.** With respect to obligations for which a pledge has been
 6 made under section 9 of this chapter, the general assembly
 7 covenants with the holders of the obligations that this chapter will
 8 not be repealed or amended in a manner that will adversely affect
 9 the imposition or collection of the tax imposed under this chapter
 10 if the payment of any of the obligations is outstanding.

11 **SECTION 3.** IC 6-9-47 IS ADDED TO THE INDIANA CODE AS
 12 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 13 1, 2015]:

14 **Chapter 47. Indiana Toll Road Food and Beverage Tax**

15 **Sec. 1.** The definitions in IC 6-9-12-1 apply throughout this
 16 chapter.

17 **Sec. 2.** As used in this chapter, "commission" means the
 18 Northern Indiana Tourism Development Commission.

19 **Sec. 3.** As used in this chapter, "council" refers to the Indiana
 20 toll road visitor services council established by section 5 of this
 21 chapter.

22 **Sec. 4.** As used in this chapter, "travel plaza" means a service
 23 area located next to the Indiana toll road at which drivers and
 24 passengers can rest, eat, or refuel without exiting the Indiana toll
 25 road.

26 **Sec. 5. (a)** There is created an Indiana toll road visitor services
 27 council. The council consists of the following ten (10) members:

28 (1) One (1) member from each of the following counties that
 29 make up the commission:

- 30 (A) Porter County.
- 31 (B) LaPorte County.
- 32 (C) St. Joseph County.
- 33 (D) Elkhart County.
- 34 (E) LaGrange County.
- 35 (F) Marshall County.
- 36 (G) Kosciusko County.

37 Each member under this subdivision must be engaged in a
 38 convention, visitor, or tourism business, or be involved in or
 39 promoting conventions, visitors, or tourism, in that county.
 40 Each member under this subdivision shall be appointed by the
 41 county executive of the county.

42 (2) One (1) member appointed by the lieutenant governor.



(3) One (1) member appointed by the Indiana finance authority.

(4) One (1) member appointed by the company or entity that holds the lease to the Indiana toll road.

(b) A majority of the council constitutes a quorum.

(c) The affirmative votes of a majority of the members of the council are necessary for the council to take any action.

(d) The council shall adopt written procedures to govern the transaction of business by the council.

(e) A member of the council who is not a state employee is not entitled to:

(1) the minimum salary per diem provided by IC 4-10-11-2.1(b); or

(2) reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties.

(f) The commission shall provide administrative services to the council as directed by the governing board of the commission.

Sec. 6. The council shall do the following:

(1) Assist the commission in developing goals and objectives for new travel service awareness campaigns.

(2) Make recommendations to the commission concerning the commission's goals and objectives.

(3) Assist the commission in the development of program measurements for the commission.

(4) Make budget recommendations to the commission.

Sec. 7. (a) There is levied an excise tax, known as the food and beverage tax, on those transactions described in section 8 of this chapter that occur within a travel plaza:

(1) located in Elkhart, LaGrange, LaPorte, Porter, or Steuben County; and

(2) in which a food and beverage tax is not already imposed.

(b) The rate of the tax imposed under this chapter equals one percent (1%) of the gross retail income on the transaction.

Sec. 8. (a) Except as provided in section 9 of this chapter, the tax imposed under section 7 of this chapter applies to any transaction in which food or beverage is furnished, prepared, or served:

(1) for consumption at a location, or on equipment, provided by a retail merchant;

(2) in a travel plaza in which the tax is imposed; and

(3) by a retail merchant for consideration.

(b) Transactions described in subsection (a)(1) include transactions in which food or beverage is:



- (1) sold in a heated state or heated by a retail merchant;
- (2) two (2) or more food ingredients mixed or combined by a retail merchant for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses); or
- (3) sold with eating utensils provided by a retail merchant, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or packaging used to transport the food).

Sec. 9. The food and beverage tax under this chapter does not apply to the furnishing, preparing, or serving of any food or beverage in a transaction that is exempt, or to the extent exempt, from the state gross retail tax imposed by IC 6-2.5.

Sec. 10. A tax imposed under this chapter shall be imposed, paid, and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5. However, the return to be filed for the payment of the taxes may be made on separate returns or may be combined with the return filed for the payment of the state gross retail tax, as prescribed by the department of state revenue.

Sec. 11. The amounts received from a tax imposed under this chapter shall be paid monthly by the treasurer of state to the commission.

Sec. 12. Money coming into possession of the commission under this chapter shall be deposited, held, secured, invested, and paid in accordance with the general statutes concerning the handling of public funds. The handling and administering of money coming into possession of the commission is subject to audit and supervision by the state board of accounts.

Sec. 13. The commission shall annually prepare a budget and submit it to the council for its review and approval. An expenditure of money received under this chapter may not be made unless:

- (1) it is made under a resolution adopted by the council; and
- (2) the specific program for which the expenditure will be made has been approved by the council.

Sec. 14. Subject to section 13 of this chapter, money coming into possession of the commission under this chapter shall be used by the commission only for the following purposes:



- (1) To establish or maintain programs of the commission that:
 - (A) promote local tourism;
 - (B) are intended to increase spending in the counties by travelers of the Indiana toll road; and
 - (C) are operated primarily within a travel plaza located in a county.
- (2) Expenditures necessarily related to visitor information services of a program referenced in subdivision (1), including expenditures for:
 - (A) advertising;
 - (B) brochures and publications;
 - (C) maps;
 - (D) travel directories;
 - (E) coupons;
 - (F) signage;
 - (G) dioramas;
 - (H) lodging reservation boards; and
 - (I) information displays.
- (3) Expenditures necessary for management personnel staffing of a program referenced in subdivision (1).
- (4) Expenditures made for media services to promote the commission's product development initiatives concerning programs referenced in subdivision (1).

Sec. 15. The council shall submit a report annually to the Indiana finance authority and the general assembly before November 1 of each year. The report to the general assembly must be in an electronic format under IC 5-14-6.

SECTION 4. IC 6-9-48 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:

Chapter 48. Orange County Food and Beverage Tax

Sec. 1. This chapter applies to Orange County.

Sec. 2. The definitions in IC 6-9-12-1 apply throughout this chapter.

Sec. 3. (a) The fiscal body of the county may adopt an ordinance to impose an excise tax, known as the county food and beverage tax, on transactions described in section 4 of this chapter. The fiscal body of the county may adopt an ordinance under this subsection only after the fiscal body has previously held at least one (1) separate public hearing in which a discussion of the proposed ordinance to impose the county food and beverage tax is the only substantive issue on the agenda for the public hearing.



(b) If the county fiscal body adopts an ordinance under subsection (a), the county fiscal body shall immediately send a certified copy of the ordinance to the department of state revenue.

(c) If the county fiscal body adopts an ordinance under subsection (a), the county food and beverage tax applies to transactions that occur after the later of the following:

(1) The day specified in the ordinance.

(2) The last day of the month that succeeds the month in which the ordinance is adopted.

Sec. 4. (a) Except as provided in subsection (c), a tax imposed under section 3 of this chapter applies to a transaction in which food or beverage is furnished, prepared, or served:

(1) for consumption at a location or on equipment provided by a retail merchant;

(2) in the county; and

(3) by a retail merchant for consideration.

(b) Transactions described in subsection (a)(1) include transactions in which food or beverage is:

(1) served by a retail merchant off the merchant's premises;

(2) food sold in a heated state or heated by a retail merchant;

(3) made of two (2) or more food ingredients, mixed or combined by a retail merchant for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses); or

(4) food sold with eating utensils provided by a retail merchant, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or package used to transport the food).

(c) The county food and beverage tax does not apply to the furnishing, preparing, or serving of a food or beverage in the following transactions:

(1) A transaction that is exempt, or to the extent the transaction is exempt, from the state gross retail tax imposed by IC 6-2.5.

(2) A transaction that occurs at a historic hotel (as defined in IC 4-33-2-11.1), the riverboat operated under IC4-33-6.5, and other properties operated in conjunction with the historic



1 hotel enterprise located in Orange County, including golf
2 courses.

3 **Sec. 5. The county food and beverage tax rate:**

4 (1) must be imposed in an increment of twenty-five
5 hundredths percent (0.25%); and

6 (2) may not exceed one percent (1%);

7 of the gross retail income received by the merchant from the food
8 or beverage transaction described in section 4 of this chapter. For
9 purposes of this chapter, the gross retail income received by the
10 retail merchant from a transaction does not include the amount of
11 tax imposed on the transaction under IC 6-2.5.

12 **Sec. 6. A tax imposed under this chapter shall be imposed, paid,**
13 **and collected in the same manner that the state gross retail tax is**
14 **imposed, paid, and collected under IC 6-2.5. However, the return**
15 **to be filed with the payment of the tax imposed under this chapter**
16 **may be made on a separate return or may be combined with the**
17 **return filed for the payment of the state gross retail tax, as**
18 **prescribed by the department of state revenue.**

19 **Sec. 7. The amounts received from the tax imposed under this**
20 **chapter shall be paid monthly by the treasurer of state to the**
21 **county fiscal officer upon warrants issued by the auditor of state.**

22 **Sec. 8. (a) If a tax is imposed under section 3 of this chapter by**
23 **the county, the county fiscal officer shall establish a food and**
24 **beverage tax receipts fund.**

25 **(b) The county fiscal officer shall deposit in the fund all amounts**
26 **received under this chapter.**

27 **(c) Money earned from the investment of money in the fund**
28 **becomes a part of the fund.**

29 **Sec. 9. Money in the food and beverage tax receipts fund must**
30 **be used by the county only for the following purposes:**

31 (1) For economic development purposes, including the pledge
32 of money under IC 5-1-14-4 for bonds, leases, or other
33 obligations for economic development purposes.

34 (2) For the following purposes:

35 (A) Storm water, sidewalk, street, park, and parking
36 improvements necessary to support tourism in the county.

37 (B) Public safety.

38 (C) The pledge of money under IC 5-1-14-4 for bonds,
39 leases, or other obligations incurred for a purpose
40 described in clauses (A) through (B).

41 Revenue derived from the imposition of a tax under this chapter
42 may be treated by the county as additional revenue for the purpose



1 of fixing its budget for the budget year during which the revenues
2 are to be distributed to the county.

3 **Sec. 10.** With respect to obligations for which a pledge has been
4 made under section 9 of this chapter, the general assembly
5 covenants with the holders of the obligations that this chapter will
6 not be repealed or amended in a manner that will adversely affect
7 the imposition or collection of the tax imposed under this chapter
8 if the payment of any of the obligations is outstanding.

9 **SECTION 5.** An emergency is declared for this act.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1044, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to HB 1044 as introduced.)

BROWN T

Committee Vote: Yeas 14, Nays 3

COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred House Bill No. 1044, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 4, after line 5, begin a new paragraph and insert:

"SECTION 2. IC 6-9-46 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 46. Greenwood Food and Beverage Tax

Sec. 1. This chapter applies to the city of Greenwood.

Sec. 2. The definitions in IC 6-9-12-1 apply throughout this chapter.

Sec. 3. (a) The fiscal body of the city may adopt an ordinance to impose an excise tax, known as the city food and beverage tax, on transactions described in section 4 of this chapter. The fiscal body of the city may adopt an ordinance under this subsection only after the fiscal body has previously held at least one (1) separate public hearing in which a discussion of the proposed ordinance to impose the city food and beverage tax is the only substantive issue on the agenda for that public hearing.

(b) If the city fiscal body adopts an ordinance under subsection (a), the city fiscal body shall immediately send a certified copy of the ordinance to the department of state revenue.

(c) If the city fiscal body adopts an ordinance under subsection (a), the city food and beverage tax applies to transactions that occur after the last day of the month that succeeds the month in which the ordinance is adopted.

Sec. 4. (a) Except as provided in subsection (c), a tax imposed under section 3 of this chapter applies to a transaction in which

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food or beverage is furnished, prepared, or served:

- (1) for consumption at a location or on equipment provided by a retail merchant;
- (2) in the city; and
- (3) by a retail merchant for consideration.

(b) Transactions described in subsection (a)(1) include transactions in which food or beverage is:

- (1) served by a retail merchant off the merchant's premises;
- (2) food sold in a heated state or heated by a retail merchant;
- (3) made of two (2) or more food ingredients, mixed or combined by a retail merchant for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses); or
- (4) food sold with eating utensils provided by a retail merchant, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or package used to transport the food).

(c) The city food and beverage tax does not apply to the furnishing, preparing, or serving of a food or beverage in a transaction that is exempt, or to the extent the transaction is exempt, from the state gross retail tax imposed by IC 6-2.5.

Sec. 5. The city food and beverage tax rate may not exceed one percent (1%) of the gross retail income received by the merchant from the food or beverage transaction described in section 4 of this chapter. For purposes of this chapter, the gross retail income received by the retail merchant from a transaction does not include the amount of tax imposed on the transaction under IC 6-2.5 or IC 6-9-35.

Sec. 6. A tax imposed under this chapter shall be imposed, paid, and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5. However, the return to be filed with the payment of the tax imposed under this chapter may be made on a separate return or may be combined with the return filed for the payment of the state gross retail tax, as prescribed by the department of state revenue.

Sec. 7. The amounts received from the tax imposed under this chapter shall be paid monthly by the treasurer of state to the city



fiscal officer upon warrants issued by the auditor of state.

Sec. 8. (a) If a tax is imposed under section 3 of this chapter by the city, the city fiscal officer shall establish a food and beverage tax receipts fund.

(b) The city fiscal officer shall deposit in the fund all amounts received under this chapter.

(c) Money earned from the investment of money in the fund becomes a part of the fund.

Sec. 9. Money in the food and beverage tax receipts fund shall be used by the city only for public safety (as defined in IC 6-3.5-6-31(a)), which may include the pledge of money under IC 5-1-14-4 for bonds, leases, or other obligations incurred for purpose of public safety (as defined in IC 6-3.5-6-31(a)). Revenue derived from the imposition of a tax under this chapter may be treated by the city as additional revenue for the purpose of fixing its budget for the budget year during which the revenues are to be distributed to the city.

Sec. 10. With respect to obligations for which a pledge has been made under section 9 of this chapter, the general assembly covenants with the holders of the obligations that this chapter will not be repealed or amended in a manner that will adversely affect the imposition or collection of the tax imposed under this chapter if the payment of any of the obligations is outstanding.

SECTION 3. IC 6-9-47 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:

Chapter 47. Indiana Toll Road Food and Beverage Tax

Sec. 1. The definitions in IC 6-9-12-1 apply throughout this chapter.

Sec. 2. As used in this chapter, "commission" means the Northern Indiana Tourism Development Commission.

Sec. 3. As used in this chapter, "council" refers to the Indiana toll road visitor services council established by section 5 of this chapter.

Sec. 4. As used in this chapter, "travel plaza" means a service area located next to the Indiana toll road at which drivers and passengers can rest, eat, or refuel without exiting the Indiana toll road.

Sec. 5. (a) There is created an Indiana toll road visitor services council. The council consists of the following ten (10) members:

(1) One (1) member from each of the following counties that make up the commission:



- (A) Porter County.
- (B) LaPorte County.
- (C) St. Joseph County.
- (D) Elkhart County.
- (E) LaGrange County.
- (F) Marshall County.
- (G) Kosciusko County.

Each member under this subdivision must be engaged in a convention, visitor, or tourism business, or be involved in or promoting conventions, visitors, or tourism, in that county. Each member under this subdivision shall be appointed by the county executive of the county.

(2) One (1) member appointed by the lieutenant governor.

(3) One (1) member appointed by the Indiana finance authority.

(4) One (1) member appointed by the company or entity that holds the lease to the Indiana toll road.

(b) A majority of the council constitutes a quorum.

(c) The affirmative votes of a majority of the members of the council are necessary for the council to take any action.

(d) The council shall adopt written procedures to govern the transaction of business by the council.

(e) A member of the council who is not a state employee is not entitled to:

(1) the minimum salary per diem provided by IC 4-10-11-2.1(b); or

(2) reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties.

(f) The commission shall provide administrative services to the council as directed by the governing board of the commission.

Sec. 6. The council shall do the following:

(1) Assist the commission in developing goals and objectives for new travel service awareness campaigns.

(2) Make recommendations to the commission concerning the commission's goals and objectives.

(3) Assist the commission in the development of program measurements for the commission.

(4) Make budget recommendations to the commission.

Sec. 7. (a) There is levied an excise tax, known as the food and beverage tax, on those transactions described in section 8 of this chapter that occur within a travel plaza:

(1) located in Elkhart, LaGrange, LaPorte, Porter, or Steuben



County; and

(2) in which a food and beverage tax is not already imposed.

(b) The rate of the tax imposed under this chapter equals one percent (1%) of the gross retail income on the transaction.

Sec. 8. (a) Except as provided in section 9 of this chapter, the tax imposed under section 7 of this chapter applies to any transaction in which food or beverage is furnished, prepared, or served:

(1) for consumption at a location, or on equipment, provided by a retail merchant;

(2) in a travel plaza in which the tax is imposed; and

(3) by a retail merchant for consideration.

(b) Transactions described in subsection (a)(1) include transactions in which food or beverage is:

(1) sold in a heated state or heated by a retail merchant;

(2) two (2) or more food ingredients mixed or combined by a retail merchant for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses); or

(3) sold with eating utensils provided by a retail merchant, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or packaging used to transport the food).

Sec. 9. The food and beverage tax under this chapter does not apply to the furnishing, preparing, or serving of any food or beverage in a transaction that is exempt, or to the extent exempt, from the state gross retail tax imposed by IC 6-2.5.

Sec. 10. A tax imposed under this chapter shall be imposed, paid, and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5. However, the return to be filed for the payment of the taxes may be made on separate returns or may be combined with the return filed for the payment of the state gross retail tax, as prescribed by the department of state revenue.

Sec. 11. The amounts received from a tax imposed under this chapter shall be paid monthly by the treasurer of state to the commission.

Sec. 12. Money coming into possession of the commission under this chapter shall be deposited, held, secured, invested, and paid in



accordance with the general statutes concerning the handling of public funds. The handling and administering of money coming into possession of the commission is subject to audit and supervision by the state board of accounts.

Sec. 13. The commission shall annually prepare a budget and submit it to the council for its review and approval. An expenditure of money received under this chapter may not be made unless:

- (1) it is made under a resolution adopted by the council; and
- (2) the specific program for which the expenditure will be made has been approved by the council.

Sec. 14. Subject to section 13 of this chapter, money coming into possession of the commission under this chapter shall be used by the commission only for the following purposes:

- (1) To establish or maintain programs of the commission that:
 - (A) promote local tourism;
 - (B) are intended to increase spending in the counties by travelers of the Indiana toll road; and
 - (C) are operated primarily within a travel plaza located in a county.
- (2) Expenditures necessarily related to visitor information services of a program referenced in subdivision (1), including expenditures for:
 - (A) advertising;
 - (B) brochures and publications;
 - (C) maps;
 - (D) travel directories;
 - (E) coupons;
 - (F) signage;
 - (G) dioramas;
 - (H) lodging reservation boards; and
 - (I) information displays.
- (3) Expenditures necessary for management personnel staffing of a program referenced in subdivision (1).
- (4) Expenditures made for media services to promote the commission's product development initiatives concerning programs referenced in subdivision (1).

Sec. 15. The council shall submit a report annually to the Indiana finance authority and the general assembly before November 1 of each year. The report to the general assembly must



be in an electronic format under IC 5-14-6.

SECTION 4. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1044 as printed February 17, 2015.)

HERSHMAN, Chairperson

Committee Vote: Yeas 10, Nays 0.

SENATE MOTION

Madam President: I move that Engrossed House Bill 1044 be amended to read as follows:

Page 9, between lines 27 and 28, begin a new paragraph and insert:

"SECTION 4. IC 6-9-48 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:

Chapter 48. Orange County Food and Beverage Tax

Sec. 1. This chapter applies to Orange County.

Sec. 2. The definitions in IC 6-9-12-1 apply throughout this chapter.

Sec. 3. (a) The fiscal body of the county may adopt an ordinance to impose an excise tax, known as the county food and beverage tax, on transactions described in section 4 of this chapter. The fiscal body of the county may adopt an ordinance under this subsection only after the fiscal body has previously held at least one (1) separate public hearing in which a discussion of the proposed ordinance to impose the county food and beverage tax is the only substantive issue on the agenda for the public hearing.

(b) If the county fiscal body adopts an ordinance under subsection (a), the county fiscal body shall immediately send a certified copy of the ordinance to the department of state revenue.

(c) If the county fiscal body adopts an ordinance under subsection (a), the county food and beverage tax applies to transactions that occur after the later of the following:

(1) The day specified in the ordinance.

(2) The last day of the month that succeeds the month in which the ordinance is adopted.

Sec. 4. (a) Except as provided in subsection (c), a tax imposed under section 3 of this chapter applies to a transaction in which



food or beverage is furnished, prepared, or served:

- (1) for consumption at a location or on equipment provided by a retail merchant;
- (2) in the county; and
- (3) by a retail merchant for consideration.

(b) Transactions described in subsection (a)(1) include transactions in which food or beverage is:

- (1) served by a retail merchant off the merchant's premises;
- (2) food sold in a heated state or heated by a retail merchant;
- (3) made of two (2) or more food ingredients, mixed or combined by a retail merchant for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses); or
- (4) food sold with eating utensils provided by a retail merchant, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or package used to transport the food).

(c) The county food and beverage tax does not apply to the furnishing, preparing, or serving of a food or beverage in the following transactions:

- (1) A transaction that is exempt, or to the extent the transaction is exempt, from the state gross retail tax imposed by IC 6-2.5.
- (2) A transaction that occurs at a historic hotel (as defined in IC 4-33-2-11.1), the riverboat operated under IC4-33-6.5, and other properties operated in conjunction with the historic hotel enterprise located in Orange County, including golf courses.

Sec. 5. The county food and beverage tax rate:

- (1) must be imposed in an increment of twenty-five hundredths percent (0.25%); and
- (2) may not exceed one percent (1%);

of the gross retail income received by the merchant from the food or beverage transaction described in section 4 of this chapter. For purposes of this chapter, the gross retail income received by the retail merchant from a transaction does not include the amount of tax imposed on the transaction under IC 6-2.5.



Sec. 6. A tax imposed under this chapter shall be imposed, paid, and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5. However, the return to be filed with the payment of the tax imposed under this chapter may be made on a separate return or may be combined with the return filed for the payment of the state gross retail tax, as prescribed by the department of state revenue.

Sec. 7. The amounts received from the tax imposed under this chapter shall be paid monthly by the treasurer of state to the county fiscal officer upon warrants issued by the auditor of state.

Sec. 8. (a) If a tax is imposed under section 3 of this chapter by the county, the county fiscal officer shall establish a food and beverage tax receipts fund.

(b) The county fiscal officer shall deposit in the fund all amounts received under this chapter.

(c) Money earned from the investment of money in the fund becomes a part of the fund.

Sec. 9. Money in the food and beverage tax receipts fund must be used by the county only for the following purposes:

(1) For economic development purposes, including the pledge of money under IC 5-1-14-4 for bonds, leases, or other obligations for economic development purposes.

(2) For the following purposes:

(A) Storm water, sidewalk, street, park, and parking improvements necessary to support tourism in the county.

(B) Public safety.

(C) The pledge of money under IC 5-1-14-4 for bonds, leases, or other obligations incurred for a purpose described in clauses (A) through (B).

Revenue derived from the imposition of a tax under this chapter may be treated by the county as additional revenue for the purpose of fixing its budget for the budget year during which the revenues are to be distributed to the county.

Sec. 10. With respect to obligations for which a pledge has been made under section 9 of this chapter, the general assembly covenants with the holders of the obligations that this chapter will not be repealed or amended in a manner that will adversely affect



the imposition or collection of the tax imposed under this chapter if the payment of any of the obligations is outstanding."

Renumber all SECTIONS consecutively.

(Reference is to EHB 1044 as printed March 27, 2015.)

BOOTS

